

Application No. 09/816,867
Amendment dated April 20, 2004
Reply to Office Action of January 20, 2004

REMARKS

In response to the Office Action mailed January 20, 2004 as entered in the above-captioned matter, the Applicants respectfully submit the following response.

Pursuant to the above-noted Office Action, claims 7 and 11 through 15 were rejected under 35 U.S.C. § 103(a) given Francis (U.S. Patent No. 3,602,064) ("Francis") in view of Suzuki (U.S. Patent No. 4,793,206) ("Suzuki"). Claim 16 was rejected under 35 U.S.C. § 103(a) given Francis in view of Suzuki. Claim 17 was objected to as depending upon a rejected base claim and claims 1 through 6 were found to contain allowable subject matter. The Applicants respectfully traverse these rejections and request reconsideration.

Claims 7 and 11 through 15 were rejected under 35 U.S.C. § 103(a) given Francis in view of Suzuki. Francis describes a parking brake having a lever and a cable tensioning device. The Examiner notes that Francis fails to disclose (at a minimum) a two-stage lever mechanism for removing slack and activating the parking brake. The Applicants believe it helpful to additionally note that Francis provides for no translational movement of the lever mechanism (10), either in response to activation of the parking brake or in response to any other action. Instead, the parking brake "actuating pedal" (10) pivots about a fixed point comprising a "pin" (24) that itself couples to an admittedly "fixed member" (20).

The Examiner seeks to extend Francis's embodiment by addition of teachings from the Suzuki reference. The Applicants vigorously disagree with the Examiner's characterization of Suzuki's teachings, however.

The Examiner characterizes Suzuki as teaching "an arrangement for a two-stage parking brake." This constitutes a significant mischaracterization of Suzuki. Rather than depicting a parking brake, Suzuki depicts a clutch mechanism.

Application No. 09/816,867
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Therefore, Suzuki does not show "an arrangement for a two-stage parking brake" as suggested by the Examiner.

This does not constitute a small point. The Examiner suggests that it would be obvious to combine the teachings of Suzuki with the teachings of Francis to arrive at the embodiments set forth by the Applicants in claims 7 and 11 through 15. As a first point of contention, the Applicants dispute whether one of average skill in the art would be inclined to make any combination of teachings as between these two references. Francis describes a parking brake. In use, an operator engages the parking brake apparatus to lock the parking brakes in an engaged state until some future time when the operator takes an action with respect to a different interface mechanism to effect release of that parking brake. Suzuki, on the other hand, describes a clutch mechanism. During normal use, an operator disengages the clutch mechanism by depressing a foot pedal and then effects, typically a short time later, a release of that clutch pedal to effect engagement of the clutch mechanism.

These are considerably different operations. The parking brake of Francis provides a lever based mechanism to engage a parking brake and a different discrete and separate mechanism to effect release of that brake. Suzuki provides a lever mechanism to effect both disengagement and engagement of a clutch mechanism. Based upon such differences as these, the Applicants respectfully assert that one skilled in the art would not find teachings relating to a clutch pedal as being obviously applicable to use with a parking brake pedal with respect to mechanisms for effecting their respective operation and usage.

The Examiner also describes Suzuki as having a lever mechanism comprised of the structure denoted by reference numerals 15 and 13. This, too, constitutes a mischaracterization of Suzuki's teachings. Number 33, as explained

by Suzuki, comprises the end portion of the clutch pedal 14. It is this clutch pedal, a combination of reference numerals 14 and 33, that comprise Suzuki's lever mechanism. The pivot point for this lever, though without a reference numeral, is clearly visible in the figures and constitutes the fulcrum about which the clutch pedal lever 14 and 13 pivots. Reference numeral 15, however, refers to a so-called "connecting member" that does *not* comprise a lever mechanism. A lever comprises a simple machine typically defined as comprising two elements, a rigid body and a fulcrum upon which the rigid body pivots. As noted above, Suzuki's clutch pedal 14 and 33 comprises such a machine. A combination of the connecting member 15 and the end portion 33 of the clutch pedal, however, does not comprise a "lever". Therefore, although connecting member 15 does experience translational movement, this member does not comprise a part of Suzuki's lever mechanism and hence Suzuki's lever mechanism does not experience translational movement.

Since neither Francis nor Suzuki provide a lever that experiences translational movement, and since such movement comprises a portion of claims 7 and 11 through 15, the Applicants respectfully submit that no combination of these two references, whether that combination be obvious or unobvious, will yield an apparatus as set forth in these claims. The Applicants therefore respectfully submit that, for all the reasons set forth above, these claims may be passed to allowance.

Claim 16, an independent claim, was also rejected as comprising an obvious combination of the Francis and Suzuki references. The Applicants respectfully note, however, that claim 16 also provides for a lever that undergoes translational movement relative to its respective housing. Therefore, the comments set forth above are applicable with respect to claim 16 as well though they will not be repeated here in detail for the sake of brevity. The Applicants respectfully submit that claim 16 may be passed to allowance as well.

Application No. 09/816,867
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There being no other rejections of the claims, the Applicants respectfully submit that claims 1 through 7 and 11 through 17 may be passed to allowance.

Respectfully submitted,
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